

**Introduced by Senator Runner**

February 23, 2007

---

An act to amend Sections 113709, 113725.1, 113751, 113789, 113818, *113907, 113909*, 113945.1, 113947.1, 113947.3, 113949.1, 113949.2, 113949.5, ~~113961~~, *113967*, 113977, 113982, 113984, 113984.1, 113986, 113996, 114000, *114029*, 114035, *114039, 114039.1*, 114039.4, 114039.5, 114060, *114074*, 114091, 114099.2, 114099.3, 114149.1, 114185.1, 114192, 114245.1, 114254, 114257, 114259.1, 114259.4, 114259.5, 114271, 114276, 114299, 114311, 114323, 114325, 114326, 114358, *114371*, 114380, 114393, 114417.1, 114417.6, and 114419 of, to repeal Sections 113947.2, 114056, and 114155 of, and to repeal and add Section 113953.4 of, the Health and Safety Code, relating to food facilities, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 744, as amended, Runner. Food facilities.

(1) The California Uniform Retail Food Facilities Law (CURFFL) provides for the regulation of health and sanitation standards for food facilities, including commissaries, by the State Department of Health Services and is primarily enforced by local health agencies. A violation of any provision of CURFFL is a misdemeanor. Effective July 1, 2007, the responsibilities of the State Department of Health Services will be transferred to the State Department of Public Health.

CURFFL defines a commissary as a food facility that services mobile food facilities, mobile support units, or vending machines where all of specified actions occur.

This bill would revise the definition of a commissary to mean a food facility that services mobile food facilities, mobile support units, or vending machines where any of the specified actions occur. By extending the applicability of the misdemeanor provisions of the CURFFL and by increasing the duties of local enforcement agencies, this bill would create a state-mandated local program.

(2) CURFFL excludes from the definition of “limited food preparation” the slicing, chopping, or grinding of raw ingredients or potentially hazardous food.

This bill would eliminate the slicing or chopping of raw ingredients or potentially hazardous food from the exclusion.

(3) CURFFL *imposes various requirements on retail food facilities regarding the identification and certification of molluscan shellfish that are harvested and received for sale or service. The bill would revise certain requirements, as specified.* ~~authorizes~~

(4) CURFFL *authorizes* a local health officer or local enforcement agency to require the immediate restriction or exclusion of any employee or food employee applicant from a food facility under specified conditions.

This bill would delete this authorization with respect to food employee applicants.

~~(4)~~

(5) CURFFL requires a food facility permitholder to instruct all food employees regarding the relationship between personal hygiene and food safety.

This bill would, instead, require the owner who has a food safety certificate or employee who has this certificate to provide this instruction. By changing the definition of a crime, this bill would impose a state-mandated local program.

~~(5)~~

(6) CURFFL requires the person in charge to notify the local enforcement agency when notified that a food employee or food employee applicant has been diagnosed with an infectious agent.

This bill would require the local enforcement agency to be notified when the person in charge is made aware that a food employee has been so diagnosed.

~~(6)~~

(7) CURFFL specifies foods that may be held between 41°F and 45°F.

This bill would provide that these foods may be held at or below 45°F.

(7)

(8) CURFFL requires food to be inspected upon receipt and prior to any use, storage, or resale.

This bill would require this inspection to be as soon as practicable.

(8)

(9) CURFFL authorizes food facilities to engage in the brewing of alcoholic beverages only pursuant to a specified Hazard Analysis Critical Control Point plan.

This bill would delete this plan requirement.

(9)

(10) This bill would also make various technical, nonsubstantive changes to the above-described provisions.

(10)

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(12) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 113709 of the Health and Safety Code  
2 is amended to read:

3 113709. Nothing in this part shall prohibit a local governing  
4 body from adopting an evaluation or grading system for food  
5 facilities, from prohibiting any type of food facility, from adopting  
6 an employee health certification program, or from regulating the  
7 provision of consumer toilet and handwashing facilities.

8 SEC. 2. Section 113725.1 of the Health and Safety Code is  
9 amended to read:

113725.1. A copy of the most recent routine inspection report conducted to assess compliance with this part shall be maintained at the food facility and made available upon request. The food facility shall post a notice advising consumers that a copy of the most recent routine inspection report is available for review by any interested party.

SEC. 3. Section 113751 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

113751. “Commissary” means a food facility that services mobile food facilities, mobile support units, or vending machines where any of the following occur:

- (a) Food, containers, or supplies are stored.
- (b) Food is prepared or prepackaged for sale or service at other locations.
- (c) Utensils are cleaned.
- (d) Liquid and solid wastes are disposed, or potable water is obtained.

SEC. 4. Section 113789 of the Health and Safety Code is amended to read:

113789. (a) “Food facility” means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption at the retail level, including, but not limited to, the following:

(1) An operation where food is consumed on or off the premises, regardless of whether there is a charge for the food.

(2) Any place used in conjunction with the operations described in this subdivision, including, but not limited to, storage facilities for food-related utensils, equipment, and materials.

(b) “Food facility” includes permanent and nonpermanent food facilities, including, but not limited to, the following:

- (1) Public and private school cafeterias.
- (2) Restricted food service facilities.
- (3) Licensed health care facilities.
- (4) Commissaries.
- (5) Mobile food facilities.
- (6) Mobile support units.
- (7) Temporary food facilities.
- (8) Vending machines.

(9) Certified farmers' markets, for purposes of permitting and enforcement.

(c) "Food facility" does not include any of the following:

(1) A cooperative arrangement wherein no permanent facilities are used for storing or handling food.

(2) A private home.

(3) A church, private club, or other nonprofit association that gives or sells food to its members and guests, and not to the general public, at an event that occurs not more than three days in any 90-day period.

(4) A for-profit entity that gives or sells food ~~to members and guests at an event that occurs not more than three days in a 90-day period~~ for the benefit of a nonprofit association, if the for-profit entity receives no monetary benefit, other than that resulting from recognition from participating in an event.

(5) Premises set aside for wine tasting, as that term is used in Section 23356.1 of the Business and Professions Code and in the regulations adopted pursuant to that section, if no food or beverage is offered for sale for onsite consumption.

(6) Premises operated by a producer, selling or offering for sale only whole produce grown by the producer, or shell eggs, or both, provided the sales are conducted on premises controlled by the producer.

(7) A commercial food processing plant as defined in Section 111955.

SEC. 5. Section 113818 of the Health and Safety Code is amended to read:

113818. (a) "Limited food preparation" means food preparation that is restricted to one or more of the following:

(1) Heating, frying, baking, roasting, popping, blending, or assembly of nonprepackaged food.

(2) Bulk dispensing of nonpotentially hazardous beverages.

(3) Holding, portioning, and dispensing of any foods that are prepared for satellite food service by the onsite permanent food facility or prepackaged by another approved source.

(4) Slicing and chopping of food on a heated cooking surface during the cooking process.

(5) Cooking and seasoning to order.

(b) "Limited food preparation" does not include slicing and chopping unless it is on the heated cooking surface, thawing,

1 cooling of cooked potentially hazardous food, grinding raw  
2 ingredients or potentially hazardous food, reheating for hot holding,  
3 washing of foods, or cooking of potentially hazardous foods for  
4 later use.

5 *SEC. 6. Section 113907 of the Health and Safety Code is*  
6 *amended to read:*

7 113907. “Shellfish certification number” means a unique  
8 combination of letters and numbers assigned by a shellfish control  
9 authority to a molluscan shellfish dealer according to *law or to the*  
10 *provisions of the National Shellfish Sanitation Program.*

11 *SEC. 7. Section 113909 of the Health and Safety Code is*  
12 *amended to read:*

13 113909. “Shellfish control authority” means a state, federal,  
14 foreign, tribal, or other government entity legally responsible for  
15 administering a program that includes certification of molluscan  
16 shellfish harvesters and dealers ~~for interstate commerce.~~

17 ~~SEC. 6.~~

18 *SEC. 8. Section 113945.1 of the Health and Safety Code is*  
19 *amended to read:*

20 113945.1. Except as specified in Section 113984.1, *the person*  
21 *in charge shall ensure that* persons unnecessary to the food facility  
22 operation shall not be allowed in the food preparation, food storage,  
23 or warewashing areas.

24 ~~SEC. 7.~~

25 *SEC. 9. Section 113947.1 of the Health and Safety Code is*  
26 *amended to read:*

27 113947.1. (a) Food facilities that prepare, handle, or serve  
28 nonprepackaged potentially hazardous food, except temporary  
29 food facilities, shall have an owner or employee who has  
30 successfully passed an approved and accredited food safety  
31 certification examination as specified in Section 113947.3. There  
32 shall be at least one food safety certified owner or employee at  
33 each food facility. No certified person at a food facility may serve  
34 at any other food facility as the person required to be certified  
35 pursuant to this subdivision. The certified owner or employee need  
36 not be present at the food facility during all hours of operation.

37 (b) Food facilities that are not subject to the requirements of  
38 subdivision (a) that prepare, handle, or serve nonprepackaged,  
39 nonpotentially hazardous foods, except temporary food facilities,  
40 shall do one of the following:

1 (1) Have an owner or employee who has successfully passed  
2 an approved and accredited food safety certification examination  
3 as specified in Section 113947.3.

4 (2) Demonstrate to the enforcement officer that the employees  
5 have an adequate knowledge of food safety principles as they relate  
6 to the specific operation involved in their assigned duties.

7 (c) On and after July 1, 2007, temporary food facilities that  
8 prepare, handle, or serve nonprepackaged food shall have an owner  
9 or person in charge who can demonstrate to the enforcement officer  
10 that he or she has an adequate knowledge of food safety principles  
11 as they relate to the specific food facility operation.

12 (d) (1) For the purposes of this section, multiple contiguous  
13 food facilities permitted within the same site and under the same  
14 management, ownership, or control shall be deemed to be one food  
15 facility, notwithstanding the fact that the food facilities may operate  
16 under separate permits.

17 (2) This subdivision shall not apply to the premises of a licensed  
18 winegrower or brandy manufacturer utilized for wine tastings  
19 conducted pursuant to Section 23356.1 of the Business and  
20 Professions Code of wine or brandy produced or bottled by, or  
21 produced and prepackaged for, that licensee when use is limited  
22 to wine tasting.

23 (e) A food facility that commences operation, changes  
24 ownership, or no longer has a certified owner or employee pursuant  
25 to this section shall have 60 days to comply with this subdivision.

26 (f) The responsibilities of a certified owner or employee at a  
27 food facility or an owner or person in charge of a temporary food  
28 facility described in subdivision (c) shall include the safety of food  
29 preparation and service, including ensuring that all employees who  
30 handle, or have responsibility for handling, nonprepackaged foods  
31 of any kind, have sufficient knowledge to ensure the safe  
32 preparation or service of the food, or both. The nature and extent  
33 of the knowledge that each employee is required to have may be  
34 tailored, as appropriate, to the employee's duties related to food  
35 safety issues.

36 (g) The food safety certificate issued pursuant to Section  
37 113947.3 shall be retained on file at the food facility at all times,  
38 and shall be made available for inspection by the enforcement  
39 officer.

1 (h) Certified individuals shall be recertified every five years by  
2 passing an approved and accredited food safety certification  
3 examination.

4 (i) A food safety program that was not in effect prior to January  
5 1, 1999, shall not be enacted, adopted, implemented, or enforced,  
6 unless the program fully conforms to the requirements of this part.

7 ~~SEC. 8.~~

8 *SEC. 10.* Section 113947.2 of the Health and Safety Code is  
9 repealed.

10 ~~SEC. 9.~~

11 *SEC. 11.* Section 113947.3 of the Health and Safety Code is  
12 amended to read:

13 113947.3. (a) Food safety certification shall be achieved by  
14 successfully passing an examination from an accredited food  
15 protection manager certification organization. The certification  
16 organization must be accredited by the American National  
17 Standards Institute as meeting the requirements of the Conference  
18 for Food Protection's "Standards for Accreditation of Food  
19 Protection Manager Certification Programs." Those food  
20 employees who successfully pass an approved certification  
21 examination shall be issued a certificate by the certifying  
22 organization. The issuance date for each original certificate issued  
23 pursuant to this section shall be the date when the individual  
24 successfully completes the examination. Certificates shall be valid  
25 for five years from the date of original issuance. Any replacement  
26 or duplicate certificate shall have as its expiration date the same  
27 expiration date that was on the original certificate.

28 (b) (1) By January 1, 2009, the department, in consultation with  
29 the California Conference of Directors of Environmental Health,  
30 representatives of the retail food industry, and other interested  
31 parties, shall develop and implement a program for the purposes  
32 of demonstrating adequate knowledge for operators of temporary  
33 food facilities.

34 (2) At least one of the accredited food safety certification  
35 examinations shall cost no more than sixty dollars (\$60), including  
36 the certificate. However, the department may adjust the cost of  
37 food safety certification examinations to reflect actual expenses  
38 incurred in producing and administering the food safety  
39 certification examinations required under this section. If a food  
40 safety certification examination is not available at the price



1 established by the department, the certification and recertification  
2 requirements relative to food safety certification examinations  
3 imposed by this section shall not apply.

4 ~~SEC. 10.~~

5 *SEC. 12.* Section 113949.1 of the Health and Safety Code is  
6 amended to read:

7 113949.1. (a) When a local health officer is notified of an  
8 illness that can be transmitted by food in a food facility or by a  
9 food employee of a food facility, the local health officer shall  
10 inform the local enforcement agency. The local health officer or  
11 the local enforcement agency, or both, shall notify the person in  
12 charge of the food facility and shall investigate conditions and  
13 may, after the investigation, take appropriate action, and for  
14 reasonable cause, require any or all of the following measures to  
15 be taken:

16 (1) The immediate restriction or exclusion of any employee  
17 from the affected food facility.

18 (2) The immediate closing of the food facility until, in the  
19 opinion of the local enforcement agency, the identified danger of  
20 disease outbreak has been addressed. Any appeal of the closure  
21 shall be made in writing within five days to the applicable local  
22 enforcement agency.

23 (3) Any medical evaluation of any employee, including any  
24 laboratory test or procedure, that may be indicated. If an employee  
25 refuses to participate in a medical evaluation, the local enforcement  
26 agency may require the immediate exclusion of the refusing  
27 employee from that or any other food facility until an acceptable  
28 medical evaluation or laboratory test or procedure shows that the  
29 food employee is not infectious.

30 (b) For purposes of this section, “illness” means a condition  
31 caused by any of the following infectious agents:

32 (1) *Salmonella typhi*.

33 (2) *Salmonella spp.*

34 (3) *Shigella spp.*

35 (4) *Entamoeba histolytica*.

36 (5) Enterohemorrhagic or shiga toxin producing *Escherichia*  
37 *coli*.

38 (6) Hepatitis A virus.

39 (7) Norovirus.

(8) Other communicable diseases that are transmissible through food.

~~SEC. 11.~~

*SEC. 13.* Section 113949.2 of the Health and Safety Code is amended to read:

113949.2. The owner who has a food safety certificate issued pursuant to Section 113947.1 or the employee who has this food safety certificate shall instruct all food employees regarding the relationship between personal hygiene and food safety, including the association of hand contact, personal habits and behaviors, and food employee health to foodborne illness. The permitholder shall require food employees to report the following to the person in charge:

(a) If an employee is diagnosed with an illness due to one of the following:

- (1) *Salmonella typhi*.
- (2) *Salmonella spp.*
- (3) *Shigella spp.*
- (4) *Entamoeba histolytica*.
- (5) Enterohemorrhagic or shiga toxin producing *Escherichia coli*.

(6) Hepatitis A virus.

(7) Norovirus.

(b) If a food employee has a lesion or wound that is open or draining and is one of the following:

(1) On the hands or wrists, unless an impermeable cover such as a finger cot or stall protects the lesion and a single-use glove is worn over the impermeable cover.

(2) On exposed portions of the arms, unless the lesion is protected by an impermeable cover.

(3) On other parts of the body, unless the lesion is covered by a dry, durable, tight-fitting bandage.

~~SEC. 12.~~

*SEC. 14.* Section 113949.5 of the Health and Safety Code is amended to read:

113949.5. (a) The person in charge shall notify the local enforcement agency when ~~made aware~~ *notified* that the food employee has been diagnosed with an infectious agent specified under subdivision (b) of Section 113949.1.

(b) A person in charge shall notify the local enforcement agency when he or she is aware that two or more food employees are concurrently experiencing symptoms associated with an acute gastrointestinal illness.

~~SEC. 13.~~

*SEC. 15.* Section 113953.4 of the Health and Safety Code is repealed.

~~SEC. 14.~~

*SEC. 16.* Section 113953.4 is added to the Health and Safety Code, to read:

113953.4. (a) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall meet either one of the following requirements:

(1) Be an approved drug that is listed in the FDA publication Approved Drug Products with Therapeutic Equivalence Evaluations as an approved drug based on safety and effectiveness.

(2) Have active antimicrobial ingredients that are listed in the FDA monograph for OTC *Antiseptic* Health-Care Drug Products as an antiseptic handwash.

(b) In addition to the requirements of subdivision (a), the hand antiseptic used as a topical application, hand antiseptic solution used as a hand dip, or hand antiseptic soap shall meet either one of the following requirements:

(1) Have components that are exempted from the requirement of being listed in federal Food Additive regulations as specified in 21 CFR 170.39 – Threshold of regulation for substances used in food-contact articles.

(2) Comply with, and be listed in, either of the following federal regulations:

(A) 21 CFR 178 – Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers as regulated for use as a Food Additive with conditions of safety use.

(B) 21 CFR 182 – Substances Generally Recognized as Safe, 21 CFR 184 – Direct Food Substances Affirmed as Generally Recognized as Safe, or 21 CFR 186 – Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food.

(c) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap that meets the requirements of subdivisions (a) and (b) shall be

1 applied only to hands that are cleaned in a manner described in  
2 Section 113953.3.

3 (d) If a hand antiseptic or a hand antiseptic solution used as a  
4 hand dip does not meet the requirements of subdivision (b), the  
5 hand antiseptic or hand antiseptic solution used as a hand dip may  
6 be used only if its use is either of the following:

7 (1) Followed by thorough hand rinsing in clean water before  
8 hand contact with food directly or with the use of gloves.

9 (2) Limited to situations where bare hands do not come in direct  
10 contact with food.

11 (e) A hand antiseptic solution used as a hand dip shall be  
12 maintained clean and at a strength equivalent to at least 100 mg/l  
13 chlorine.

14 ~~SEC. 15. Section 113961 of the Health and Safety Code is~~  
15 ~~amended to read:~~

16 ~~113961. (a) Food employees shall minimize bare hand and~~  
17 ~~arm contact with nonprepackaged food that is in a ready-to-eat~~  
18 ~~form.~~

19 ~~(b) Food employees shall use utensils, including scoops, forks,~~  
20 ~~tongs, paper wrappers, gloves, or other implements, to assemble~~  
21 ~~ready-to-eat food or to place ready-to-eat food on tableware or in~~  
22 ~~other containers. However, food employees may assemble or place~~  
23 ~~on tableware or in other containers ready-to-eat food in an approved~~  
24 ~~food preparation area without using utensils if hands are cleaned~~  
25 ~~in accordance with Section 113953.3.~~

26 ~~(c) Food that has been served to the consumer and then wrapped~~  
27 ~~or prepackaged at the direction of the consumer shall be handled~~  
28 ~~only with utensils. These utensils shall be properly sanitized before~~  
29 ~~reuse.~~

30 *SEC. 17. Section 113967 of the Health and Safety Code is*  
31 *amended to read:*

32 113967. No employee shall commit any act that may result in  
33 cause the contamination or adulteration of food, food-contact  
34 surfaces, or utensils.

35 ~~SEC. 16.~~

36 *SEC. 18. Section 113977 of the Health and Safety Code is*  
37 *amended to read:*

38 113977. (a) Except as specified in subdivision (b), an employee  
39 shall eat, drink, or use any form of tobacco only in designated  
40 areas where contamination of nonprepackaged food; clean

1 equipment, utensils, and linens; unwrapped single-use articles; or  
2 other items needing protection cannot result.

3 (b) A food employee may drink from a closed beverage  
4 container if the container is handled to prevent contamination of  
5 the employee's hands, the container, nonprepackaged food, and  
6 food-contact surfaces.

7 ~~SEC. 17.~~

8 *SEC. 19.* Section 113982 of the Health and Safety Code is  
9 amended to read:

10 113982. (a) Food shall be transported in a manner that meets  
11 the following requirements:

12 (1) The interior floor, sides, and top of the food holding area  
13 shall be constructed of a smooth, washable, impervious material  
14 capable of withstanding frequent cleaning.

15 (2) The food holding area shall be constructed and operated so  
16 that no liquid wastes can drain onto any street, sidewalk, or  
17 premises.

18 (3) Approved methods shall be used to maintain potentially  
19 hazardous food at the required holding temperatures.

20 (b) This section shall not apply to the transportation of  
21 prepackaged nonpotentially hazardous foods.

22 ~~SEC. 18.~~

23 *SEC. 20.* Section 113984 of the Health and Safety Code is  
24 amended to read:

25 113984. (a) Adequate and suitable counter space shall be  
26 provided for all food preparation operations.

27 (b) Except as specified in subdivision (c), food preparation shall  
28 be conducted within a fully enclosed food facility.

29 (c) Limited food preparation shall be conducted within a food  
30 compartment or as approved by the enforcement agency. All food  
31 shall be thawed, washed, sliced, and cooled within an approved  
32 fully enclosed food facility.

33 (d) Food shall be prepared with suitable utensils and on surfaces  
34 that, prior to use, have been cleaned, rinsed, and sanitized as  
35 specified in Section 114117 to prevent cross-contamination.

36 (e) Overhead protection shall be provided above all food  
37 preparation, food display, and food storage areas.

38 ~~SEC. 19.~~

39 *SEC. 21.* Section 113984.1 of the Health and Safety Code is  
40 amended to read:

1 113984.1. Consumer access to a food facility through the food  
2 preparation area is permissible, at the discretion of the  
3 permit holder, if ready-to-eat foods are prepared in approved areas  
4 separated from sources of contamination by a space of at least  
5 three feet from the consumer and in areas that are separate from  
6 raw or undercooked foods. The route of access shall be separated  
7 from the required space by a rail or wall at least three feet high or  
8 otherwise clearly delineated.

9 ~~SEC. 20.~~

10 *SEC. 22.* Section 113986 of the Health and Safety Code is  
11 amended to read:

12 113986. (a) Food shall be protected from cross-contamination  
13 by utilizing one or more of the following methods:

14 (1) Separating raw food of animal origin during transportation,  
15 storage, preparation, holding, and display from raw ready-to-eat  
16 food, including other raw food of animal origin such as fish for  
17 sushi or molluscan shellfish, or other raw ready-to-eat food such  
18 as produce, and cooked ready-to-eat food.

19 (2) Except when combined as ingredients, separating types of  
20 raw foods of animal origin from each other during transportation,  
21 storage, preparation, holding, and display in the following ways:

22 (A) Using separate equipment for each type.

23 (B) Arranging each type of food in equipment so that  
24 cross-contamination of one type with another is prevented.

25 (C) Preparing each type of food at different times or in separate  
26 areas.

27 (D) Except as specified in subdivision (b), storing the food in  
28 packages, covered containers, or wrappings.

29 (E) Cleaning hermetically sealed containers of food of visible  
30 soil before opening.

31 (F) Protecting food containers that are received packaged  
32 together in a case or overwrap from cuts when the case or overwrap  
33 is opened.

34 (G) Storing damaged, spoiled, or recalled food being held in  
35 the food establishment as specified in Section 114055.

36 (H) Separating fruits and vegetables before they are washed, as  
37 specified in Section 113992, from ready-to-eat food.

38 (b) Subparagraph (D) of paragraph (2) of subdivision (a) of this  
39 section shall not apply to any of the following:

1 (1) Whole, uncut, raw fruits and vegetables and nuts in the shell  
2 that require peeling or hulling before consumption.

3 (2) Primal cuts, quarters, or sides of raw meat or slab bacon that  
4 are hung on clean, sanitized hooks or placed on clean, sanitized  
5 racks.

6 (3) Whole, uncut, processed meats, such as country hams, and  
7 smoked or cured sausages that are placed on clean, sanitized racks.

8 (4) Food being cooled as specified in subdivision (b) of Section  
9 114002.1.

10 (5) Shellstock.

11 ~~SEC. 21.~~

12 *SEC. 23.* Section 113996 of the Health and Safety Code, as  
13 added by Section 2 of Chapter 23 of the Statutes of 2006, is  
14 amended to read:

15 113996. (a) Except during preparation, cooking, cooling,  
16 transportation to or from a retail food facility for a period of less  
17 than 30 minutes, or when time is used as the public health control  
18 as specified under Section 114000, or as otherwise provided in  
19 this section, potentially hazardous food shall be maintained at or  
20 above 135°F, or at or below 41°F.

21 (b) Roasts cooked to a temperature and for a time specified in  
22 subdivision (b) of Section 114004 may be held at a temperature  
23 of 130°F.

24 (c) The following foods may be held at or below 45°F:

25 (1) Raw shell eggs.

26 (2) Unshucked live molluscan shellfish.

27 (3) Pasteurized milk and pasteurized milk products in original,  
28 sealed containers.

29 (4) Potentially hazardous foods held for dispensing in serving  
30 lines and salad bars during periods not to exceed 12 hours in any  
31 24-hour period or held in vending machines. For purposes of this  
32 subdivision, a display case shall not be deemed to be a serving  
33 line.

34 (5) Potentially hazardous foods held for sampling at a certified  
35 farmers' market.

36 (6) Potentially hazardous foods held during transportation.

37 ~~SEC. 22.~~

38 *SEC. 24.* Section 114000 of the Health and Safety Code, as  
39 added by Section 2 of Chapter 23 of the Statutes of 2006, is  
40 amended to read:

1 114000. (a) Except as specified in subdivision (b), if time only,  
2 rather than time in conjunction with temperature, is used as the  
3 public health control for a working supply of potentially hazardous  
4 food before cooking or for ready-to-eat potentially hazardous food  
5 that is displayed or held for service for immediate consumption,  
6 the following shall occur:

7 (1) The food shall be marked or otherwise identified to indicate  
8 the time that is four hours past the point in time when the food is  
9 removed from temperature control.

10 (2) The food shall be cooked and served, served if ready-to-eat,  
11 or discarded within four hours from the point in time when the  
12 food is removed from temperature control.

13 (3) The food in unmarked containers or packages or marked to  
14 exceed a four-hour limit shall be discarded.

15 (4) Written procedures shall be maintained in the food facility  
16 and made available to the enforcement agency upon request, that  
17 ensure compliance with this section and Section 114002, for food  
18 that is prepared, cooked, and refrigerated before time is used as a  
19 public health control.

20 (b) Time only, rather than time in conjunction with temperature,  
21 may not be used as the public health control for raw eggs in the  
22 following food facilities:

23 (1) Licensed health care facilities.

24 (2) Public and private school cafeterias.

25 *SEC. 25. Section 114029 of the Health and Safety Code is*  
26 *amended to read:*

27 114029. (a) Molluscan shellfish shall be obtained from sources  
28 according to law ~~and~~ or the requirements specified in the United  
29 States Department of Health and Human Services, Public Health  
30 Service, Food and Drug Administration, National Shellfish  
31 Sanitation Program Guide for the Control of Molluscan Shellfish.

32 (b) Molluscan shellfish received in interstate commerce shall  
33 be from sources that are listed in the Interstate Certified Shellfish  
34 Shippers List.

35 (c) Molluscan shellfish that are recreationally caught shall not  
36 be received for sale or service.

37 ~~SEC. 23.~~

38 *SEC. 26. Section 114035 of the Health and Safety Code, as*  
39 *added by Section 2 of Chapter 23 of the Statutes of 2006, is*  
40 *amended to read:*



1 114035. (a) Food shall be inspected as soon as practicable  
2 upon receipt and prior to any use, storage, or resale.

3 (b) Food shall be accepted only if the inspection conducted upon  
4 receipt determines that the food satisfies all of the following:

5 (1) Was prepared by and received from approved sources.

6 (2) Is received in a wholesome condition.

7 (3) Is received in packages that are in good condition and that  
8 protect the integrity of the contents so that the food is not exposed  
9 to adulteration or potential contaminants.

10 (4) Is in containers and on pallets that are not infested with  
11 vermin or otherwise contaminated.

12 (c) Potentially hazardous food shall be inspected for signs of  
13 spoilage and randomly checked for adherence to the temperature  
14 requirements as specified in Section 113996.

15 *SEC. 27. Section 114039 of the Health and Safety Code is*  
16 *amended to read:*

17 114039. (a) Raw shucked shellfish shall be obtained in  
18 nonreturnable packages that bear a legible label that identifies the  
19 name, address, and certification number of the shucker-packer or  
20 repacker of the molluscan shellfish, and a “sell by” date *or a “best*  
21 *if used by” date* for packages with a capacity of less than one-half  
22 gallon, or the date shucked for packages with a capacity of one-half  
23 gallon or more.

24 (b) A package of raw shucked shellfish that does not bear a label  
25 or that bears a label that does not contain all the information  
26 required by subdivision (a) shall be subject to *impound pursuant*  
27 *to Section 114393 and a hold order or seizure and destruction in*  
28 ~~accordance with 21 C.F.R. 1240.60(d).~~

29 *SEC. 28. Section 114039.1 of the Health and Safety Code is*  
30 *amended to read:*

31 114039.1. (a) Shellstock shall be obtained in containers bearing  
32 legible source identification tags or labels that are affixed by the  
33 harvester ~~and~~ *or* each dealer that depurates, ships, or reships the  
34 shellstock. Except as specified by subdivision (c), on the  
35 harvester’s or dealer’s tag or label, the following information shall  
36 be listed in the following order:

37 (1) The harvester’s or dealer’s name and address.

38 (2) The harvester’s certification number as assigned by the  
39 authority and the original shellstock shipper’s certification number.

40 (3) The date of harvesting.

(4) The most precise identification of the harvest location or aquaculture site that is practicable based on the system of harvest area designations that is in use by the shellfish control authority and including the abbreviation of the name of the state or country in which the shellfish are harvested.

(5) The type and quantity of shellfish.

(6) The following statement in bold, capitalized type: “THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS.”

(7) The dealer’s tag or label shall also indicate the original shipper’s certification number, including the abbreviation of the name of the state or country in which the shellfish are harvested.

(b) A container of shellstock that does not bear a tag or label or that bears a tag or label that does not contain all the information required under subdivision (a) shall be subject to ~~a hold order or seizure and destruction in accordance with 21 C.F.R. 1240.60(d)~~ *impound pursuant to Section 114393.*

(c) If the harvester’s tag or label is designed to accommodate each dealer’s identification, individual dealer tags or labels need not be provided.

~~SEC. 24.~~

*SEC. 29.* Section 114039.4 of the Health and Safety Code is amended to read:

114039.4. (a) Except as specified by subdivision (b), shellstock tags shall remain attached to the container in which the shellstock are received until the container is empty.

(b) The identity of the source of shellstock that are sold or served shall be maintained for 90 calendar days from the ~~using~~ dates of harvest by using an approved recordkeeping system that keeps the tags or labels in chronological order correlated to the date or dates the shellstock are sold or served.

(c) Notwithstanding subdivision (b), if shellstock are removed from their tagged or labeled container, the identity of the source of shellstock that are sold or served shall be maintained by doing ~~both of~~ the following:

(1) Using a recordkeeping system as required under subdivision (b).

(2) Ensuring that shellstock from one tagged or labeled container are not commingled with shellstock from another container with

1 different certification numbers, harvest dates, or growing areas as  
2 identified on the tag or label before being ordered by the consumer.

3 (3) If shellstock are portioned and prepackaged, including a  
4 copy of the corresponding shellstock tag or properly labeling the  
5 package with the required shellfish information.

6 ~~SEC. 25.~~

7 *SEC. 30.* Section 114039.5 of the Health and Safety Code is  
8 amended to read:

9 114039.5. (a) Except as specified in subdivision (b), molluscan  
10 shellfish life-support system display tanks shall not be used to  
11 display shellfish that are offered for human consumption and shall  
12 be conspicuously marked so that it is obvious to the consumer that  
13 the shellfish are for display only.

14 (b) Molluscan shellfish life support system display tanks that  
15 are used to store and display shellfish that are offered for human  
16 consumption shall be operated and maintained in accordance with  
17 an ~~approved~~ HACCP plan as specified in Section 114419.1.  
18 Operation and maintenance shall ensure the following:

19 (1) Water used with fish other than molluscan shellfish does  
20 not flow into the molluscan tank.

21 (2) The safety and quality of the shellfish as they were received  
22 are not compromised by the use of the tank.

23 (3) The identity of the source of the shellstock is retained as  
24 specified in Section 114039.4.

25 (c) Molluscan shellfish life support system display tanks that  
26 were ~~approved for~~ *in* operation prior to the effective date of this  
27 part need not comply with ~~Sections 114419 and 114419.3~~ *Section*  
28 *114419.*

29 ~~SEC. 26.~~

30 *SEC. 31.* Section 114056 of the Health and Safety Code, as  
31 added by Section 2 of Chapter 23 of the Statutes of 2006, is  
32 repealed.

33 ~~SEC. 27.~~

34 *SEC. 32.* Section 114060 of the Health and Safety Code, as  
35 added by Section 2 of Chapter 23 of the Statutes of 2006, is  
36 amended to read:

37 114060. (a) Except for nuts in the shell and whole raw fruits  
38 and vegetables that are intended for hulling, peeling, or washing  
39 by the consumer before consumption, food on display shall be  
40 protected from contamination by the use of packaging, counter,

1 service line, or sneeze guards that intercept a direct line between  
2 the consumer's mouth and the food being displayed, containers  
3 with tight-fitting securely attached lids, display cases, mechanical  
4 dispensers, or other effective means.

5 (b) Nonprepackaged food may be displayed and sold in bulk in  
6 other than self-service containers if both of the following conditions  
7 are satisfied:

8 (1) The food is served by a food employee directly to a  
9 consumer.

10 (2) The food is displayed in clean, sanitary, and covered, or  
11 otherwise protected, containers.

12 *SEC. 33. Section 114074 of the Health and Safety Code is*  
13 *amended to read:*

14 114074. (a) If tableware is preset, ~~it shall be protected from~~  
15 ~~contamination by being wrapped, covered, or inverted.~~

16 ~~(b) Exposed~~ *exposed*, unused settings shall be removed when  
17 a consumer is seated.

18 ~~(e)–~~

19 (b) Exposed, unused settings shall be cleaned and sanitized  
20 before further use if the settings are not removed when a consumer  
21 is seated.

22 ~~SEC. 28.~~

23 *SEC. 34. Section 114091 of the Health and Safety Code is*  
24 *amended to read:*

25 114091. In a licensed health care facility and a public or private  
26 school cafeteria, the following shall apply:

27 (a) Only pasteurized juice may be served.

28 (b) Only pasteurized fluid and dry milk and milk products  
29 complying with Grade A standards as specified in ~~LAW~~ *law* shall  
30 be served.

31 (c) Pasteurized shell eggs or pasteurized liquid, frozen, or dry  
32 eggs or egg products shall be substituted for raw shell eggs in the  
33 preparation of foods such as Caesar salad, hollandaise or béarnaise  
34 sauce, mayonnaise, eggnog, ice cream, and egg-fortified beverages,  
35 and, except as specified in subdivision (e), recipes in which more  
36 than one egg is broken and the eggs are combined.

37 (d) Food shall not be reserved in both of the following situations:

38 (1) Where the food was already served to patients or clients  
39 who are under contact precautions in medical isolation or  
40 quarantine or protective environment isolation.

(2) Where the food would otherwise be reserved to a person in a protective environment isolation.

(e) The following foods may not be served or offered for sale in a ready-to-eat form:

(1) Raw foods of animal origin such as raw fish, raw-marinated fish, raw molluscan shellfish, and steak tartare.

(2) A partially cooked food of animal origin, such as lightly cooked fish, rare meat, soft-cooked eggs, that is made from raw shell eggs, and meringue.

(3) Raw seed sprouts.

(f) Subdivision (c) does not apply in any of the following instances:

(1) The raw eggs are combined immediately before cooking for one consumer's serving at a single meal, cooked as specified under Section 114004, and served immediately, such as an omelet, soufflé, or scrambled eggs.

(2) The raw eggs are combined as an ingredient immediately before baking and the eggs are thoroughly cooked to a ready-to-eat form, such as a cake, muffin, or bread.

(3) The preparation of the food is conducted under a HACCP plan that:

(A) Identifies the food to be prepared.

(B) Prohibits contacting ready-to-eat food with bare hands.

(C) Includes specifications and practices that ensure salmonella enteritidis growth is controlled before and after cooking and is destroyed by cooking the eggs to an internal temperature of 145°F.

(D) Contains the information specified under a HACCP plan, including procedures that control cross-contamination of ready-to-eat food with raw eggs, and delineate cleaning and sanitization procedures for food-contact surfaces.

(E) Describes the training program that ensures that the food employee responsible for the preparation of the food understands the procedures to be used.

~~SEC. 29.~~

*SEC. 35.* Section 114099.2 of the Health and Safety Code is amended to read:

114099.2. (a) Notwithstanding Section 114099, manual warewashing shall be accomplished by using a three-compartment sink.

(b) The temperature of the washing solution shall be maintained at not less than 110°F or the temperature specified on the cleaning agent manufacturer's label instructions.

(c) The utensils shall then be rinsed in clear water before being immersed in a sanitizing solution.

(d) Manual sanitization shall be accomplished as specified in Section 114099.6.

(e) In-place sanitizing shall be accomplished as specified in Section 114099.6.

(f) Other methods may be used if approved by the enforcement agency.

~~SEC. 30.~~

*SEC. 36.* Section 114099.3 of the Health and Safety Code is amended to read:

114099.3. Alternative manual warewashing equipment may be used when there are special cleaning needs or constraints, such as when equipment is fixed or the utensils are large, and the enforcement agency has approved the use of the alternative equipment. Alternative manual warewashing equipment may include any of the following:

(a) High-pressure detergent sprayers.

(b) Low-or-line pressure spray detergent foamers.

(c) Other task-specific cleaning equipment.

(d) Brushes or other implements.

(e) (1) A two-compartment sink, if the permit holder limits the number of utensils cleaned and sanitized in the two-compartment sink, limits warewashing to batch operations for cleaning and sanitizing utensils, such as between cutting one type of raw meat and another or cleanup at the end of a shift, and does either of the following:

(A) Makes up the cleaning and sanitizing solutions immediately before use and drains them immediately after use, as well as uses a detergent sanitizer to clean and sanitize in accordance with the manufacturer's label instructions where there is no distinct water rinse between the washing and sanitizing steps. The agent applied in the sanitizing step shall be the same detergent sanitizer that is used in the washing step.

(B) Use a hot water sanitization immersion step that incorporates a nondistinct water rinse.

(2) A two-compartment sink shall not be used for warewashing operations where cleaning and sanitizing solutions are used for a continuous or intermittent flow of utensils in an ongoing warewashing process.

~~SEC. 31.~~

SEC. 37. Section 114149.1 of the Health and Safety Code is amended to read:

114149.1. (a) Mechanical exhaust ventilation equipment shall be provided over all cooking equipment as required to effectively remove cooking odors, smoke, steam, grease, heat, and vapors. All mechanical exhaust ventilation equipment shall be installed and maintained in accordance with the California Mechanical Code, except that for units subject to Part 2 (commencing with Section 18000) of Division 13, an alternative code adopted pursuant to Section 18028 shall govern the construction standards.

(b) Restricted food service facilities shall be exempt from subdivision (a), but shall still provide ventilation to remove gases, odors, steam, heat, grease, vapors and smoke from the food facility. In the event that the enforcement officer determines that the ventilation must be mechanical in nature, the ventilation shall be accomplished by methods approved by the enforcement agency.

(c) This section shall not apply to cooking equipment when the equipment has been submitted to the local enforcement agency for evaluation, and the local enforcement agency has found that the equipment does not produce toxic gases, smoke, grease, vapors, or heat when operated under conditions recommended by the manufacturer. The local enforcement agency may recognize a testing organization to perform any necessary evaluations.

(d) Makeup air shall be provided at the rate of that exhausted.

~~SEC. 32.~~

SEC. 38. Section 114155 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is repealed.

~~SEC. 33.~~

SEC. 39. Section 114185.1 of the Health and Safety Code is amended to read:

114185.1. (a) Wiping cloths that are in use for cleaning food spills shall not be used for any other purpose.

(b) Cloths used for wiping food spills shall be dry and used for cleaning food spills from tableware and carry-out containers or

1 used only once, or if used repeatedly, held in a sanitizing solution  
2 of an approved concentration as specified in Section 114099.6.

3 (c) Dry or wet cloths that are used with raw foods of animal  
4 origin shall be kept separate from cloths used for other purposes,  
5 and wet cloths used with raw foods of animal origin shall be kept  
6 in a separate sanitizing solution.

7 (d) Wet wiping cloths used with a freshly made sanitizing  
8 solution and dry wiping cloths shall be free of food debris and  
9 visible soil.

10 (e) Working containers of sanitizing solutions for storage of  
11 in-use wiping cloths shall be used in a manner to prevent  
12 contamination of food, equipment, utensils, linens, or single-use  
13 articles.

14 ~~SEC. 34.~~

15 *SEC. 40.* Section 114192 of the Health and Safety Code is  
16 amended to read:

17 114192. (a) Except as provided in subdivision (d), anadequate,  
18 protected, pressurized, potable supply of hot water and cold water  
19 shall be provided. Hot water shall be supplied at a minimum  
20 temperature of at least 120°F measured from the faucet, unless  
21 otherwise specified in this part. The water supply shall be from a  
22 water system approved by the health officer or the local  
23 enforcement agency.

24 (b) Any hose used for conveying potable water shall be  
25 constructed of nontoxic materials, shall be used for no other  
26 purpose, and shall be clearly labeled as to its use. The hose shall  
27 be stored and used so as to be kept free of contamination.

28 (c) The potable water supply shall be protected with a backflow  
29 or back siphonage protection device when required by applicable  
30 plumbing codes. Exposed piping of a nonpotable water system  
31 shall be identified so that it is readily distinguishable from piping  
32 that carries potable water.

33 (d) A food facility may provide only warm water if the water  
34 supply is used only for handwashing, as required in Section  
35 113953.

36 ~~SEC. 35.~~

37 *SEC. 41.* Section 114245.1 of the Health and Safety Code is  
38 amended to read:

39 114245.1. (a) All refuse, recyclables, and returnables shall be  
40 kept in nonabsorbent, durable, cleanable, leakproof, and



1 rodentproof containers and shall be contained so as to minimize  
2 odor and insect development by covering with close-fitting lids or  
3 placement in a disposable bag that is impervious to moisture and  
4 then sealed.

5 (b) Refusecontainers inside a food facility need not be covered  
6 during periods of operation.

7 (c) All refuse shall be removed and disposed of in a sanitary  
8 manner as frequently as may be necessary to prevent the creation  
9 of a nuisance.

10 (d) Storage areas, enclosures, and receptacles for refuse,  
11 recyclables, and returnables shall be maintained in good repair.

12 (e) Refuse, recyclables, and returnables shall be removed from  
13 the premises at a frequency that will minimize the development  
14 of objectionable odors and other conditions that attract or harbor  
15 insects and rodents.

16 ~~SEC. 36.~~

17 *SEC. 42.* Section 114254 of the Health and Safety Code, as  
18 added by Section 2 of Chapter 23 of the Statutes of 2006, is  
19 amended to read:

20 114254. Only those insecticides, rodenticides, and other  
21 pesticides that are necessary and specifically approved for use in  
22 a food facility may be used. The use shall be in accordance with  
23 the manufacturer's instructions.

24 ~~SEC. 37.~~

25 *SEC. 43.* Section 114257 of the Health and Safety Code is  
26 amended to read:

27 114257. All premises of a food facility shall be kept clean *fully*  
28 *operative, and in good repair.*

29 *SEC. 44. Section 114259.1 of the Health and Safety Code is*  
30 *amended to read:*

31 114259.1. The premises of each food facility shall be kept  
32 ~~clean and~~ free of vermin.

33 ~~SEC. 38.~~

34 *SEC. 45.* Section 114259.4 of the Health and Safety Code is  
35 amended to read:

36 114259.4. (a) Except as specified in subdivision (b), food  
37 employees shall not care for or handle animals that may be present,  
38 such as patrol dogs, service animals, or pets that are allowed as  
39 specified in subdivision (b) of Section 114259.5.

(b) Food employees with service animals may handle or care for their service animals if they wash their hands as required in this part. Food employees may handle or care for fish in aquariums or molluscan shellfish or crustacea in display tanks if they wash their hands as required in this part.

~~SEC. 39.~~

*SEC. 46.* Section 114259.5 of the Health and Safety Code is amended to read:

114259.5. (a) Except as specified in subdivision (b), live animals may not be allowed in a food facility.

(b) Live animals may be allowed in any of the following situations if the contamination of food, clean equipment, utensils, linens, and unwrapped single-use articles cannot result:

(1) Edible fish or decorative fish in aquariums, shellfish or crustacea on ice or under refrigeration, and shellfish and crustacea in display tank systems.

(2) Animals intended for consumption if the live animals are kept separate from all food and utensil handling areas, are held in sanitary conditions, are slaughtered in a separate room designed solely for that purpose and separated from other food and utensil handling areas, and maintained in an area that has ventilation separate from food and utensil handling areas.

(3) Dogs under the control of a uniformed law enforcement officer or of uniformed employees of private patrol operators and operators of a private patrol service who are licensed pursuant to Chapter 11.5 (commencing with Section 7580) of Division 3 of the Business and Professions Code, while those employees are acting within the course and scope of their employment as private patrol persons.

(4) In areas that are not used for food preparation and that are usually open for consumers, such as dining and sales areas, service animals that are controlled by a disabled employee or person, if a health or safety hazard will not result from the presence or activities of the service animal.

(5) Pets in the common dining areas of restricted food service facilities at times other than during meals if all of the following conditions are satisfied:

(A) Effective partitioning and self-closing doors separate the common dining areas from food storage or food preparation areas.

1 (B) Condiments, equipment, and utensils are stored in enclosed  
2 cabinets or removed from the common dining areas when pets are  
3 present.

4 (C) Dining areas including tables, countertops, and similar  
5 surfaces are effectively cleaned before the next meal service.

6 (6) In areas that are not used for food preparation, storage, sales,  
7 display, or dining, in which there are caged animals or animals  
8 that are similarly restricted, such as in a variety store that sells pets  
9 or a tourist park that displays animals.

10 (7) If kept at least 20 feet (6 meters) away from any mobile food  
11 facility, temporary food facility, or certified farmers' market.

12 (c) Those persons and operators described in paragraphs (3) and  
13 (4) are liable for any damage done to the premises or facilities by  
14 the dog.

15 (d) Live or dead fish bait may be stored if contamination of  
16 food, clean equipment, utensils, linens, and unwrapped single-use  
17 articles cannot result.

18 ~~SEC. 40.~~

19 *SEC. 47.* Section 114271 of the Health and Safety Code is  
20 amended to read:

21 114271. (a) Except as provided in subdivision (b), the walls  
22 and ceilings of all rooms shall be of a durable, smooth,  
23 nonabsorbent, and easily cleanable surface.

24 (b) This section shall not apply to any of the following areas:

25 (1) Walls and ceilings of bar areas in which alcoholic beverages  
26 are sold or served directly to the consumers, except wall areas  
27 adjacent to bar sinks and areas where food is prepared.

28 (2) Areas where food is stored only in unopened bottles, cans,  
29 cartons, sacks, or other original shipping containers.

30 (3) Dining and sales areas.

31 (4) Offices.

32 (5) Restrooms that are used exclusively by the consumers, except  
33 that the walls and ceilings in the restrooms shall be of a  
34 nonabsorbent and washable surface.

35 (c) Acoustical paneling may be utilized if it is installed not less  
36 than six feet above the floor. The paneling shall meet the other  
37 requirements of this section.

38 (d) Conduits of all types shall be installed within walls as  
39 practicable. When otherwise installed, they shall be mounted or  
40 enclosed so as to facilitate cleaning.

(e) Attachments to walls and ceilings, such as light fixtures, mechanical room ventilation system components, vent covers, wall mounted fans, decorative items, and other attachments, shall be easily cleanable.

~~SEC. 41.~~

*SEC. 48.* Section 114276 of the Health and Safety Code is amended to read:

114276. (a) A permanent food facility shall provide clean toilet facilities in good repair for use by employees.

(b) (1) A permanent food facility shall provide clean toilet facilities in good repair for consumers, guests, or invitees when there is onsite consumption of foods or when the food facility was constructed after July 1, 1984, and has more than 20,000 square feet of floor space.

(2) Notwithstanding Section 113984.1, toilet facilities that are provided for use by ~~patrons~~ consumers, guests, or invitees shall be in a location where ~~patrons~~ consumers, guests, and invitees do not pass through food preparation, food storage, or utensil washing areas to reach the toilet facilities.

(3) For purposes of this section, a building subject to paragraph (1) that has a food facility with more than 20,000 square feet of floor space shall provide at least one separate toilet facility for men and one separate toilet facility for women.

(4) For purposes of this section, the gas pump area of a service station that is maintained in conjunction with a food facility shall not be considered as property used in connection with the food facility or be considered in determining the square footage of floor space of the food facility.

(c) (1) Toilet rooms shall be separated by well-fitted, self-closing doors that prevent the passage of flies, dust, or odors.

(2) Toilet room doors shall be kept closed except during cleaning and maintenance operations.

(d) Handwashing facilities, in good repair, shall be provided as specified in Sections 113953 and 113953.3.

(e) Any city, county, or city and county may enact ordinances that are more restrictive than this section.

(f) (1) Except as provided in paragraph (1) of subdivision (b), any building that is constructed before January 1, 2004, that has a food facility that provides space for the consumption of food on the premises shall either provide clean toilet facilities in good

1 repair for consumers, guests, or invitees on property used in  
2 connection with, or in, the food facility or prominently post a sign  
3 within the food facility in a public area stating that toilet facilities  
4 are not provided.

5 (2) The first violation of paragraph (1) shall result in a warning.  
6 Subsequent violations shall constitute an infraction punishable by  
7 a fine of not more than two hundred fifty dollars (\$250).

8 (3) The requirements of this section for toilet facilities that are  
9 accessible to consumers, guests, or invitees on the property may  
10 be satisfied by permitting access by those persons to the toilet and  
11 handwashing facilities that are required by this part.

12 ~~SEC. 42.~~

13 *SEC. 49.* Section 114299 of the Health and Safety Code, as  
14 added by Section 2 of Chapter 23 of the Statutes of 2006, is  
15 amended to read:

16 114299. (a) Except as specified in subdivision (c), the business  
17 name or name of the operator, city, state, ZIP Code, and name of  
18 the permittee, if different from the name of the food facility, shall  
19 be legible, clearly visible to ~~patrons~~ consumers, and permanently  
20 affixed on the consumer side of the mobile food facility and on a  
21 mobile support unit.

22 (b) The name shall be in letters at least 3 inches high and shall  
23 be of a color contrasting with the vehicle exterior. Letters and  
24 numbers for the city, state, and ZIP Code shall not be less than  
25 one inch high.

26 (c) Notwithstanding subdivision (a), motorized mobile food  
27 facilities and mobile support units shall have the required  
28 identification on two sides.

29 ~~SEC. 43.~~

30 *SEC. 50.* Section 114311 of the Health and Safety Code, as  
31 added by Section 2 of Chapter 23 of the Statutes of 2006, is  
32 amended to read:

33 114311. Mobilefood facilities not under a valid permit as of  
34 January 1, 1997, from which nonprepackaged food is sold shall  
35 provide handwashing facilities. The handwashing facilities shall  
36 be separate from the warewashing sink.

37 (a) The handwashing sink shall have a minimum dimension of  
38 nine inches by nine inches in length and width and five inches in  
39 depth and be easily accessible by food employees.

(b) The handwashing facility shall be separated from the warewashing sink by a metal splashguard with a height of at least six inches that extends from the back edge of the drainboard to the front edge of the drainboard, the corners of the barrier to be rounded. No splashguard is required if the distance between the handwashing sink and the warewashing sink drainboards is 24 inches or more.

~~SEC. 44.~~

*SEC. 51.* Section 114323 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114323. (a) A first-aid kit shall be provided and located in a convenient area in an enclosed case.

(b) Mobile food facilities that operate at more than one location in a calendar day shall be equipped to meet all of the following requirements:

(1) All utensils in a mobile food facility shall be stored so as to prevent their being thrown about in the event of a sudden stop, collision, or overturn. A safety knife holder shall be provided to avoid loose storage of knives in cabinets, boxes, or slots along counter aisles. Knife holders shall be designed to be easily cleanable and be manufactured of materials approved by the enforcement agency.

(2) Coffee urns, deep fat fryers, steam tables, and similar equipment shall be equipped with positive closing lids that are fitted with a secure latch mechanism that will prevent excessive spillage of hot liquids into the interior of a mobile food facility in the event of a sudden stop, collision, or overturn. As an alternative to this requirement, a coffee urn may be installed in a compartment that will prevent excessive spillage of coffee in the interior of the unit.

(3) Metal protective devices shall be installed on the glass liquid level sight gauges on all coffee urns.

(c) Light bulbs and tubes shall be covered with a completely enclosed plastic safety shield or its equivalent, and installed so as to not constitute a hazard to personnel or food.

(d) All liquefied petroleum equipment shall be installed to meet applicable fire authority standards, and this installation shall be approved by the fire authority. However, for units subject to Part 2 (commencing with Section 18000) of Division 13, this equipment

1 and its installation shall comply with standards prescribed by  
2 Sections 18028 and 18029.5.

3 (e) A properly charged and maintained minimum 10 BC-rated  
4 fire extinguisher to combat grease fires shall be properly mounted  
5 and readily accessible on the interior of any mobile food facility  
6 that is equipped with heating elements or cooking equipment.

7 (f) (1) Except for units subject to Part 2 (commencing with  
8 Section 18000) of Division 13, a second means of exit shall be  
9 provided in the side opposite the main exit door, or in the roof, or  
10 the rear of the unit, with an unobstructed passage of at least 24  
11 inches by 36 inches. The interior latching mechanism shall be  
12 operable by hand without special tools or key. The exit shall be  
13 labeled "Safety Exit" in contrasting colors with letters at least one  
14 inch high.

15 (2) For units subject to Part 2 (commencing with Section 18000)  
16 of Division 13, the size, latching, and labeling of the second means  
17 of exit shall comply with standards prescribed by Sections 18028  
18 and 18029.5.

19 (g) All gas-fired appliances shall be properly insulated in a  
20 manner that will prevent excessive heat buildup and injury.

21 ~~SEC. 45.~~

22 *SEC. 52.* Section 114325 of the Health and Safety Code, as  
23 added by Section 2 of Chapter 23 of the Statutes of 2006, is  
24 amended to read:

25 114325. (a) Except on a mobile food facility that only utilizes  
26 the water for handwashing purposes, a water heater or an  
27 instantaneous heater capable of heating water to a minimum of  
28 120°F, interconnected with a potable water supply, shall be  
29 provided and shall operate independently of the vehicle engine.  
30 On a mobile food facility that only utilizes the water for  
31 handwashing purposes, a water heater or an instantaneous water  
32 heater capable of heating water to a minimum of 100°F,  
33 interconnected with a potable water supply, shall be provided and  
34 shall operate independently of the vehicle engine.

35 (b) (1) Except as specified in paragraph (2), a water heater with  
36 a minimum capacity of three gallons shall be provided for mobile  
37 food facilities.

38 (2) A minimum water heater capacity of one-half gallon shall  
39 be provided for mobile food facilities approved for limited food  
40 preparation.

1     ~~SEC. 46.~~

2     *SEC. 53.* Section 114326 of the Health and Safety Code, as  
3 added by Section 2 of Chapter 23 of the Statutes of 2006, is  
4 amended to read:

5     114326. All commissaries and other approved facilities  
6 servicing mobile support units, mobile food facilities, and vending  
7 machines shall meet the applicable requirements in this part and  
8 any of the following to accommodate all operations necessary to  
9 support mobile support units, mobile ~~food~~ food facilities, and  
10 vending machines:

11     (a) Adequate facilities shall be provided for the sanitary disposal  
12 of liquid waste from the mobile food facility or mobile support  
13 unit being serviced.

14     (b) Adequate facilities shall be provided for the handling and  
15 disposal of garbage and refuse originating from a mobile food  
16 facility or mobile support unit.

17     (c) Potable water shall be available for filling the water tanks  
18 of each mobile food facility and mobile support unit that requires  
19 potable water. Faucets and other potable water sources shall be  
20 constructed, located, and maintained so as to minimize the  
21 possibility of contaminating the water being loaded.

22     (d) Hot and cold water, under pressure, shall be available for  
23 cleaning mobile food facilities and mobile support units.

24     (e) Adequate facilities shall be provided for the storage of food,  
25 utensils, and other supplies.

26     (f) Notwithstanding Section 113984, commissaries that service  
27 mobile food facilities that conduct limited food preparation shall  
28 provide a food preparation area.

29     (g) Servicing areas at commissaries shall be provided with  
30 overhead protection, except that areas used only for the loading  
31 of water or the discharge of sewage and other liquid waste through  
32 the use of a closed system of hoses need not be provided with  
33 overhead protection.

34     (h) Servicing areas used for cleaning shall be sloped and drained  
35 to an approved wastewater system.

36     (i) Adequate electrical outlets shall be provided for mobile food  
37 facilities and mobile support units that require electrical service.



1     ~~SEC. 47.~~

2     ~~SEC. 54.~~ Section 114358 of the Health and Safety Code, as  
3 added by Section 2 of Chapter 23 of the Statutes of 2006, is  
4 amended to read:

5     114358. (a) Notwithstanding Section 113953, handwashing  
6 facilities for temporary food facilities that operate for three days  
7 or less may include a container capable of providing a continuous  
8 stream of water from an approved source that leaves both hands  
9 free to allow vigorous rubbing with soap and warm water for 10  
10 to 15 seconds, inclusive.

11     (b) Food facilities that handle only prepackaged food may  
12 provide cold water with a germicidal soap at the handwashing  
13 facility.

14     (c) A catch basin shall be provided to collect wastewater, and  
15 the wastewater shall be properly disposed of according to Section  
16 114197.

17     (d) Handwashing facilities shall be equipped with handwashing  
18 cleanser and single-use sanitary towels.

19     (e) A separate receptacle shall be available for towel waste.

20     ~~SEC. 55.~~ *Section 114371 of the Health and Safety Code is*  
21 *amended to read:*

22     114371. Certified farmers' markets shall meet all of the  
23 following requirements:

24     (a) All food shall be stored at least six inches off the floor or  
25 ground or under any other conditions that are approved.

26     (b) Food preparation is prohibited at certified farmers' markets  
27 with the exception of food samples. Distribution of food samples  
28 may occur provided that the following sanitary conditions exist:

29     (1) Samples shall be kept in approved, clean, covered containers.

30     (2) All food samples shall be distributed by the producer in a  
31 sanitary manner.

32     (3) Clean, disposable plastic gloves shall be used when cutting  
33 food samples.

34     (4) Food intended for sampling shall be washed or cleaned in  
35 another manner of any soil or other material by potable water in  
36 order that it is wholesome and safe for consumption.

37     (5) Notwithstanding Section 114205, potable water shall be  
38 available for handwashing and sanitizing as approved by the  
39 enforcement agency.

(6) Potentially hazardous food samples shall be maintained at or below 45°F and shall be disposed of within two hours after cutting.

(7) Wastewater shall be disposed of in a facility connected to the public sewer system or in a manner approved by the enforcement agency.

(8) Utensils and cutting surfaces shall be smooth, nonabsorbent, and easily cleanable, or single-use articles shall be utilized.

(c) Approved toilet and handwashing facilities shall be available within 200 feet travel distance of the premises of the certified farmers' market or as approved by the enforcement officer.

(d) No live animals, birds, or fowl shall be kept or allowed within 20 feet of any area where food is stored or held for sale. This subdivision does not apply to guide dogs, signal dogs, or service dogs when used in the manner specified in Section 54.1 of the Civil Code.

(e) All garbage and refuse shall be stored and disposed of in a manner approved by the enforcement officer.

(f) Notwithstanding Chapter 10 (commencing with Section 114294), vendors selling food adjacent to, and under the jurisdiction and management of, a certified farmers' market may store, display, and sell from a table or display fixture apart from the ~~vehicle~~ *mobile food facility* in a manner approved by the enforcement agency.

(g) Temporary food facilities may be operated as a separate community event adjacent to and in conjunction with certified farmers' markets that are operated as a community event. The organization in control of the event at which one or more temporary food facilities operate shall comply with Section 114383.

~~SEC. 48.~~

*SEC. 56.* Section 114380 of the Health and Safety Code, as added by Section 2 of Chapter 23 of the Statutes of 2006, is amended to read:

114380. (a) A person proposing to build or remodel a food facility shall submit complete, easily readable plans drawn to scale, and specifications to the enforcement agency for review, and shall receive plan approval before starting any new construction or remodeling of any facility for use as a retail food facility.

(b) Plans and specifications may also be required by the enforcement agency if the agency determines that they are

1 necessary to assure compliance with the requirements of this part,  
2 including, but not limited to, a menu change or change in the  
3 facility's method of operation.

4 (c) (1) All new school food facilities or school food facilities  
5 that undergo modernization or remodeling shall comply with all  
6 structural requirements of this part. Upon submission of plans by  
7 the school authority, the Office of *the* State Architect and the local  
8 enforcement agency shall review and approve all new and  
9 remodeled school facilities for compliance with all applicable  
10 requirements.

11 (2) Except where a determination is made by the enforcement  
12 agency that the nonconforming structural conditions pose a public  
13 health hazard, existing food facilities shall be deemed to be in  
14 compliance with the law pending replacement or renovation. If a  
15 determination is made by the enforcement agency that a structural  
16 condition poses a public health hazard, the food facility shall  
17 remedy the deficiency to the satisfaction of the enforcement  
18 agency.

19 (d) The plans shall be approved or rejected within 20 working  
20 days after receipt by the enforcement agency and the applicant  
21 shall be notified of the decision. Unless the plans are approved or  
22 rejected within 20 working days, they shall be deemed approved.  
23 The building department shall not issue a building permit for a  
24 food facility until after it has received plan approval by the  
25 enforcement agency. Nothing in this section shall require that plans  
26 or specifications be prepared by someone other than the applicant.

27 ~~SEC. 49.~~

28 *SEC. 57.* Section 114393 of the Health and Safety Code is  
29 amended to read:

30 114393. (a) Based upon inspection findings or other evidence,  
31 an enforcement officer may impound food, equipment, or utensils  
32 that are found to be, or suspected of being, unsanitary or in such  
33 disrepair that food, equipment, or utensils may become  
34 contaminated or adulterated, and inspect, impound, or inspect and  
35 impound any utensil that is suspected of releasing lead or cadmium  
36 in violation of Section 108860. The enforcement officer may attach  
37 a tag to the food, equipment, or utensils that shall be removed only  
38 by the enforcement officer following verification that the condition  
39 has been corrected.

(b) No food, equipment, or utensils impounded pursuant to subdivision (a) shall be used unless the impoundment has been released.

(c) Within 30 days, the enforcement agency that has impounded the food, equipment, or utensils pursuant to subdivision (a) shall commence proceedings to release the impounded materials or to seek administrative or legal remedy for its disposition.

~~SEC. 50.~~

*SEC. 58.* Section 114417.1 of the Health and Safety Code is amended to read:

114417.1. (a) Within 180 days after the effective date of this part, the department shall develop the form of application that an applicant for a variance must submit. The department may amend the form as it deems appropriate. The application shall contain, at a minimum, the following information:

(1) A detailed description of the requested variance, including citation to the relevant subdivisions specified in Section 113936.

(2) An analysis of the science-based rationale upon which the proposed alternate practice or procedure is based, to include, if and as appropriate, microbial challenge and process validation studies demonstrating how potential health hazards dealt with in those subdivisions that are relevant to the requested variance will be addressed.

(3) A description of the specific procedures, processes, monitoring steps, and other relevant protocols that will be implemented pursuant to the variance to address potential health hazards dealt with in those subdivisions specified in Section 113936 that are relevant to the requested variance.

(4) An HACCP plan, if required pursuant to Section 114419, that includes all applicable information relevant to the requested variance.

(b) An application for a variance shall be submitted to the department, and must be accompanied at the time of submission by the fees specified in subdivision (c).

(c) Each application for a variance shall be accompanied at the time of submission by payment of fees sufficient to pay the necessary costs of the department as specified in Section 113717. Any overpayment by the applicant in excess of the recovery rate and other costs incurred shall be repaid to the applicant within 30

1 calendar days after final action is taken by the department on the  
2 application.

3 ~~SEC. 51.~~

4 *SEC. 59.* Section 114417.6 of the Health and Safety Code is  
5 amended to read:

6 114417.6. If the department grants a variance, or if an HACCP  
7 plan is required pursuant to Section 114419, the permitholder shall  
8 do both of the following:

9 (a) Comply with the HACCP plan and procedures that are  
10 submitted as specified in Sections 114419.1 and 114419.2 and  
11 approved as a condition for the granting of the variance.

12 (b) Maintain and provide to the enforcement agency, upon  
13 request, records specified under a HACCP plan, or otherwise  
14 pursuant to the variance letter, that demonstrate that the following  
15 are routinely employed:

16 (1) Procedures for monitoring critical control points.

17 (2) Monitoring of the critical control points.

18 (3) Verification of the effectiveness of an operation or process.

19 (4) Necessary corrective actions if there is a failure at a critical  
20 control point.

21 ~~SEC. 52.~~

22 *SEC. 60.* Section 114419 of the Health and Safety Code is  
23 amended to read:

24 114419. (a) Food facilities may engage in any of the following  
25 activities only pursuant to an HACCP plan as specified in Section  
26 114419.1:

27 (1) Smoking food as a method of food preservation rather than  
28 as a method of flavor enhancement.

29 (2) Curing food.

30 (3) Using food additives or adding components such as vinegar  
31 as a method of food preservation rather than as a method of flavor  
32 enhancement, or to render a food so that it is not potentially  
33 hazardous.

34 (4) Operating a molluscan shellfish life support system display  
35 tank used to store and display shellfish that are offered for human  
36 consumption.

37 (5) Custom processing animals that are for personal use as food  
38 and not for sale or service in a food facility.

39 (6) Preparing food by another method that is determined by the  
40 enforcement agency to require an HACCP plan.

(b) Food facilities may engage in the following only pursuant to an HACCP plan that has been approved by the department:

(1) Using acidification or water activity to prevent the growth of *Clostridium botulinum*.

(2) Packaging potentially hazardous food using a reduced-oxygen packaging method as specified in Section 114057.1.

~~SEC. 53.~~

*SEC. 61.* No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

*SEC. 62. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:*

*In order to ensure that laws regulating food safety at retail food facilities are enacted at the earliest possible time, thereby protecting public health, it is necessary that this act take effect immediately.*